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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,299	12/08/2000	Nicholas Broeders	CAN168/JTN	2667
7590	02/03/2004		EXAMINER	
DANIEL A. SCOLA, JR. HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			LITHGOW, THOMAS M	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,299

Applicant(s)

BROEDERS ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 21-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 11-10-2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: page 3, line 7, the phrase in the newly inserted paragraph which recites --so as to prevent the heavy waste from being trapped with the light waste in the collection area--. This phrase is newly added to the specification and to claim 1. Further it is argued by applicant as a reason to define over the prior art.

Applicant is required to cancel the new matter in the reply to this Office Action.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way

as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See the above objection to the specification.

3. This application contains claims 21-30 drawn to an invention nonelected with traverse in Paper No. 10152002. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 10-11, 14/2, 14/11, 15, 18/1, 18/2, 19 and 31-33 rejected under 35 U.S.C. 102(b) as being anticipated by Marsh (US 2076380). Marsh discloses an oil interceptor which includes an inlet baffle 21 – shaped very similar to applicant's inlet baffle, an outlet baffle 38 and an inclined ramp 35a which acts as a flow directing baffle. As noted by

applicant, the heavies and the water are both withdrawn through outlet 40 while light wastes (oil) accumulate in an upper region to be periodically removed by a manual action. Applicant asserts Marsh is deficient in two ways. Firstly applicant asserts that Marsh is not "configured to permit the heavy waste to separate from the wastewater stream". This is not persuasive. Applicant's device operates to cause the heavies to report at a location labeled 42 in figure 1 and broadly recited in claim 1 as a "heavy waste removal area". The ultimate fate of applicant's heavies is to be discharged out of the separation container with the wastewater stream. Marsh's device causes the heavies to report to any one of corrugations and ultimately Marsh's heavies are discharged with the effluent (clarified wastewater) as is applicant's heavies. Marsh's heavies, as applicant's heavies report to the bottom of the separator and are eventually discharged with the clarified wastewater effluent. As the operation is the same, applicant's assertion is not persuasive. The second alleged difference is the newly added language "so as to prevent the heavy waste from being carried by the light waste to the collection area". The operation of Marsh requires that the heavies report to the bottom and are removed with the effluent wastewater stream. This is sufficient to know that the heavies are

not trapped with the light wastes. With regard to the "preferred flow path" of claim 1, it may be that the flow path of Marsh's is slightly different than the disclosed flow path as shown in figure 1 of applicant's specification. Marsh '380 does have a flow path and it can be considered as a "preferred flow path".

6. Claims 1-5, 10-11, 14/2, 14/11, 15 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirshstein (US 2140582). H'582 discloses a grease trap separator with an inlet baffle 12, an outlet baffle 3, and a removable cover 10. Applicant alleges that Hirshstein '582 does not perform the function of preventing the heavy waste from being carried by the light waste to the collection area. This is not persuasive as Hirshstein's heavies are eventually discharged with the effluent clarified wastewater stream through outlet 8 (as applicant's).

Claim Rejections - 35 USC § 103

7. Claims 9, 12, 13, 14/9, 16, 17 and 18/17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh '380 as applied to claims 1+ above, and further in view of McDermott (US 1121270). McDermott '270 discloses a grease trap (fig. 1-2 version) with an inlet baffle 28 and an

outlet baffle both having handles to remove the baffles to facilitate the periodic cleaning of the grease trap. The benefits of easy cleaning are axiomatic and to so modify the Marsh patent would have been obvious to one of ordinary skill in the art.

8. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by any one of Munroe (US 2242139), or Rubin (US 3313795) or Yeh (US 5538631) or Burke (US 4492636). Each of the above four patents includes a lower inlet and "stream director" for wastewater influent, air entraining means (release of pressurized liquid with dissolved air), and a flow path (preferred) which is generally diagonal and is shown by the patents.

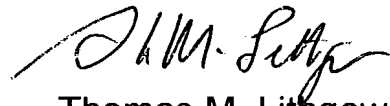
9. Applicant's arguments with respect to claim 20 have been considered but are moot in view of the new ground(s) of rejection. The remaining claim arguments are addressed in the body of the rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a

first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Thomas M. Lithgow at telephone number 571-272-1162.



Thomas M. Lithgow
Primary Examiner
Art Unit 1724